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Pallavi Shah

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EXAMINER

HA, LEYNNA A

ART UNIT

PAPER NUMBER

2135

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

| | |
|--------------------------------------|------------------------------------|
| Application No. 09/551,523 | Applicant(s) SHAH ET AL. |
| Examiner LEYNNA T. HA | Art Unit 2135 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 705.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 22 December 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 49-54, 56-75, 77-88, and 90-99.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the claimed invention broadly states the continuous stream of content is transmitted and obtained via plurality of automatically switched communication paths in accordance with sequence of transmission.

AS PER CLAIM 49:

The claimed continuous stream of content does not particularly indicate what form or state of content is considered continuous stream and can broadly be interpreted as the continuous stream of content (or program) is during and after the switching of the channels (or communication paths) according to frequencies (or sequence of transmission).

Mihara discloses the broadcasting station (or server) transmits multiple broadcasting multiple television signal (or plurality of notifications) which is obtained by the terminal device (col.4, lines 44-59 and col.6, lines 37-40). The signals are for determining the frequency corresponding to the channels(col.7, lines 10-24). Therefore, Mihara reads on the claims obtaining by a client said plurality of notifications and transmitting from a server a plurality of notifications for determining a sequence of transmission. Further,

Mihara discloses the continuous stream of content is affected by the switching of channels and in turn the frequencies corresponding to the channels (col.5, lines 3-7 and 14-16) due to the chargeable program that the viewer determined to view (col17, lines 29-40). Because if the viewer does not desire to view the chargeable program, within a time period, then the image is scrambled (col17, lines 42-44). This shows either chargeable, non-chargeable, or determining not to view the chargeable program, is still in continuous stream whether in a scrambled or non-scrambled content.

Mihara discloses broadcasting program can be continuously viewed in a normal state only when a predetermined authentication signal is transmitted from the CATV terminal to the broadcasting station where the CATV system can receive channel switching means for switching a receiving channel to the channel set in the setting means in a predetermined time period (col.5, lines 3-26). Mihara's invention is to send out signals (notification) corresponding to the plurality of channels and the channel selecting circuit respectively converts the frequencies of the selected broadcasting signals corresponding to the channels into the frequencies corresponding (col.7, lines 16-25). Mihara further indicates that the receiving channel is automatically switched for each predetermined time period or the like is given to the CATV terminal devices in order that the viewer can simply know the contents of channels which can be currently received (col.18, lines 37-42). Thus, the continuous stream of content (program) is affected by the switching of channels and in turn the frequencies corresponding to the channels due to the chargeable program that the viewer determined to view (col17, lines 29-44). Because if the viewer does not desire to view the chargeable program, within a time period, then the image is scrambled. This shows either chargeable, non-chargeable, or not determining to view the chargeable program is still continuous whether in a scrambled or non-scrambled content. Therefore, Mihara reads on the claimed continuous stream of content via a plurality of communication paths according to the sequence of transmission.

AS PER CLAIM 58 was rejected over Iwamura and further in view of Dureau.

Examiner traverses the argument on page 15 that refers to Iwamura on col.5, lines 53-55 because Iwamura does not teach "the time required for executing a procedure is not increased with the increase in the number of component devices". Iwamura discloses "communication device group in which the device selects one of a plurality of communication paths available for communication and cannot directly communicate with a device" on col.5, lines 53-55. This does not relate to applicant's argument of transmitting a notification comprising an indication of a given time at which a part of content will be transmitted on a communication path. The transmitting a notification comprising an indication of a given time is discussed further below.

In addition, examiner traverses the argument that there is no teaching or suggestion in Iwamura of "transmitting an encrypted notification of a communication path on which a part of said content will be transmitted at a given time, wherein said encrypted notification comprises an indication of said given time". Iwamura teaches plurality of notifications and transmitting these notifications of a communication path on which part of said content will be transmitted at a given time. However, Iwamura as indicated in the last office rejection, does not include the notifications to be in encrypted form. Hence, Dureau is brought forth to teach this limitation.

The claimed part of content will be transmitted at a given time is broad and relative to what is part of the content and when is at a given time to have it transmitted. Iwamura discloses transmitting a part or a whole of the data (col.7, lines 20-22) and communication path selection means for selecting a communication path used for communication from among a plurality of communication paths (col.7, lines 48-50). Iwamura discusses a timer is set for transmitting the communication environment information to the terminals (col.25, lines 31-33) where the transmission and receipt of the communication environment information are segmented (parts of content) among communication groups (col.27, lines 64-66). This way, the traffic volume on the network is reduced as compared with which the information is not segmented (col.28, lines 1-4). In addition, Iwamura discloses multiplex transmission such a radio communication channel capable of transmission by frequency division multiplexing or time division multiplexing. To better understand the terminology, refer to Microsoft Dictionary where the definition for time division multiplexing (TDM) is known as a form of multiplexing in which transmission time is broken into segments each of which carries one element of one signal. Thus, Iwamura reads on the claimed part of content will be transmitted at a given time. The TDM obviously reads on the claimed transmitting another notification of another communication path on which another part of said content will be transmitted at another given time and transmitting said another part of said content on said another communication path at said another given time because for TDM, transmission time is broken into segments carrying one element of one signal.

However, Iwamura did not include encrypted notification. Dureau teaches implementing a variety of measures to maintain the security and quality of transmitted programs where portions of the television content can be nontrusted and trusted (col.2, lines 28-31). Dureau discloses notifications identify one or more pieces of trusted television content (col.4, lines 65-66). The notification may be delivered via a channel that is not secure which needs to be encrypted to verify its authenticity (col.6, lines 46-48). Therefore, it would have been obvious for a person of ordinary skills in the art at the time of the invention to combine the teachings of encrypted notifications of Dureau with the teachings of transmitting notifications on plurality of communication paths of Iwamura because to verify and proof its authenticity.



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